

## **Food and Nutrition Service (FNS), Supplemental Nutrition and Safety Programs, Supplemental Food Programs Division**

### **MEMBERSHIP BALANCE PLAN**

1. Committee's Official Designation

National Advisory Council on Maternal, Infant and Fetal Nutrition (Council)

2. Authority

Section 17k of the Child Nutrition Act (CNA) of 1966, as amended 42 U.S.C. 1786, mandates a National Advisory Council on Maternal, Infant and Fetal Nutrition and authorizes the Secretary of Agriculture to appoint members. The Council operates in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App.2. The Council is composed of 24 members of which 21 are authorized by the above referenced Act; 2 additional members are authorized by the Anti-Drug Abuse Act of 1988, Public Law (P.L.) 100-690; and 1 additional member is authorized by the Child Nutrition and WIC Amendments of 1989, P.L. 101-147.

3. Objectives and Scope of Activities

The Council's purpose was to study the operation of the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) and related programs such as the Commodity Supplemental Food Program (CSFP), to determine how they may be improved and to submit a report of its study to Congress and the President. The Federal Reports Elimination Act of 1998, P.L. 105-362, enacted November 10, 1998, eliminated the purpose of the Council and the requirement that a Council report be submitted. Although the Council report function was eliminated, the Council has continued the practice of developing a report to Congress with recommendations for Program improvements.

4. Points of View Needed for the Committee

The Council is composed of 24 members of which 21 are authorized by the CNA of 1966, as amended 42 U.S.C. 1786; 2 members are authorized by the Anti-Drug Abuse Act of 1988, P.L. 100-690; and 1 member is authorized by the Child Nutrition and WIC Amendments of 1989, P.L. 101-147. The United States Office

of Government Ethics on July 19, 2004, issued guidance which designated three positions on the Council as Special Government Employees (SGE). The statutory membership includes: State WIC director; State CSFP director; State WIC fiscal officer; State health officer; local WIC director in an urban area; local WIC director in a rural area; local CSFP director; State public health nutrition director; representative of an organization serving migrants; official from a State agency serving predominately American Indians; 2 WIC and 1 CSFP parent participants; pediatrician; obstetrician; representative of a non-profit public interest organization that has experience with and knowledge of the WIC Program; person involved at the retail sales level of food; expert in drug abuse education and prevention (SGE); expert in alcohol abuse education and prevention (SGE); expert in breastfeeding promotion(SGE); 2 officials from the U.S. Department of Health and Human Services (DHHS); and 2 officials from the Department of Agriculture (USDA).

Members appointed from outside USDA and DHHS are appointed for terms not exceeding three years; parent participants are appointed for terms not exceeding two years; and State and local officials may only serve during their official tenures. Every effort will be made to ensure that the membership of this Committee is balanced, nevertheless, USDA recognizes that committee membership is not static and may change, depending on the work of the committee.

Section 17(k)(3) of the CNA of 1966, as amended 42 U.S.C. 1786, states that eleven members shall constitute a quorum.

#### 5. Other Balance Factors

Equal opportunity practices, in line with USDA policies, will be followed in all membership appointments to the committee. To ensure that the recommendations of the committee have taken into account the needs of the diverse groups served by the Department, membership shall include, (to the extent practicable), minorities, women, and persons with disabilities.

The USDA prohibits discrimination in all of its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, political beliefs, genetic information, reprisal, or because all or part of an individual's income is derived from any public assistance program.

6. Candidate Identification Process

Due to the mandated categories of membership, Food and Nutrition Service (FNS) solicits nominations from WIC stakeholders and other potentially interested organizations for the current Council vacancies. A letter soliciting nominations will be sent to all WIC State agencies, former and current Council Members, and a variety of other national organizations with an interest in WIC and whose membership is relevant to the categories of Council membership such as the National WIC Association (NWA), and the Association of State and Territorial Health Officials (ASTHO). FNS Regional Office staff and WIC State Agency staff will be notified of the Council vacancies and encouraged to submit nominations. FNS staff will continue to update and expand stakeholder contacts for soliciting nominations and will seek to identify new stakeholder groups who may identify nominees. FNS will continue to encourage participation on the Council in their public statements and look for new opportunities to highlight the Council. FNS will announce the vacant Council positions on their website at <http://www.fns.usda.gov/wic/national-advisory-council-maternal-infant-and-fetal-nutrition> and provide this link to interested stakeholders. FNS will publish a Federal Register Notice soliciting nominations for the vacant positions. FNS will utilize the USDA database for advisory council committee potential nominees. FNS will coordinate with other USDA offices that are committed to the fair and ethical treatment of all USDA customers for soliciting nominations or recommending sources of potential nominees for the Council.

Once candidates have been identified, their names and background data are submitted to the USDA White House Liaison's office for vetting. The vetting process includes a background check to determine if any of the candidates have a conflict of interest that would prohibit them from serving on the committee due to criminal or ethical violations.

7. Subcommittee Balance

Not Applicable

8. Other

9. Date Prepared or Updated

10. Legal Background

Section 5(b)(2) of the FACA requires "...the membership of the advisory committee to be fairly balanced in terms of the points of view represented and the functions to be performed by the advisory committee." The corresponding FACA regulations reiterate this requirement at 41 CFR § 102-3.30(c), and, for

discretionary committees being established, renewed, or reestablished, require agencies to provide a description of their plan to attain fairly balanced membership during the charter consultation process with GSA (41 CFR § 102-3.60(b)(3)). The document created through this process is the Membership Balance Plan. The regulations further clarify that (1) the purpose of the membership balance plan is to ensure “that, in the selection of members for the advisory committee, the agency will consider a cross-section of those directly affected, interested, and qualified, as appropriate to the nature and functions of the advisory committee;” and (2) “[a]dvisory committees requiring technical expertise should include persons with demonstrated professional or personal qualifications and experience relevant to the functions and tasks to be performed.” (41 CFR § 102-3.60(b)(3)).

FACA mandates that Federal advisory committees be balanced in the points of view represented by the members, but leaves it to the discretion of each agency on how to do this. The FACA regulations offer guidance in achieving a balanced Federal advisory committee membership, which include considering:

- (i) The Federal advisory committee’s mission;
- (ii) The geographic, ethnic, social, economic, or scientific impact of the Federal advisory committee’s recommendations;
- (iii) The types of specific perspectives required, such as those of consumers, technical experts, the public at-large, academia, business, or other sectors;
- (iv) The need to obtain divergent points of view on the issues before the Federal advisory committee; and
- (v) The relevance of State, local, or tribal governments to the development of the Federal advisory committee’s recommendations.” (41 CFR § III of App. A to Subpart B)